



JSA Newsletter Environmental Disputes and ESG Regulatory

December 2024

Supreme Court judgements/orders

Constitution of State Environment Impact Assessment Authorities

The Supreme Court of India in [Union of India vs. Rajiv Suri](#)¹ has directed State Governments to establish State Environment Impact Assessment Authorities ("SEIAAs") within 6 (six) weeks, if not already constituted. This decision arises from a matter concerning improper environmental clearances issued by District Environment Impact Assessment Authorities instead of SEIAAs. The Court emphasised stricter regulatory oversight for mining leases and extended the deadline for re-appraising earlier clearances until March 31, 2025. The matter will be reviewed in January 2025.

Supreme Court Quashes NGT Penalty on Benzo Chem Industrial for Environmental Non-Compliance

The Supreme Court of India in its order dated November 27, 2024, in the matter of [Benzo Chem Industrial Private Limited v. Arvind Manohar Mahajan & Ors](#)², criticized the National Green Tribunal's (NGT) methodology employed in imposing a penalty based on the appellant's revenue, ranging between INR 100 crores and INR 500 crores, as legally unsound. The Hon'ble Supreme Court emphasized that revenue figures were irrelevant to the assessment of environmental damages and that the NGT's failure to notify the appellant before imposing such a significant penalty violated principles of natural justice.

Supreme Court Quashes NGT Penalty on Benzo Chem Industrial for Environmental Non-Compliance

The Supreme Court of India in its judgment dated November 27, 2024, in the matter of [Grasim Industries Limited v. State of Madhya Pradesh and Ors](#)³, reviewed appeals against orders passed by the NGT. The NGT had imposed penalties on Grasim Industries for alleged violations of the Environment Protection Act, including the failure to install an online flow meter to measure emissions and the hazardous nature of by-products produced by the appellant's plant. The Hon'ble Supreme Court found that NGT had not followed the principles of natural justice, specifically, Grasim Industries was not made a party in the proceedings before the NGT or the Joint Committee, which had examined the plant. The Supreme Court quashed the NGT's orders and remitted the case back to the NGT for reconsideration, ensuring that the appellant is impleaded as a party and afforded an opportunity to be heard.

¹ Civil Appeal Nos. 3799-3800/2019

² Civil Appeal Nos. 9202-9203/2022

³ Civil Appeal Nos. 1711-1712 OF 2021

Regulatory updates

Guidelines for determination of processing capacity of e-waste recycler's

The Central Pollution Control Board, *vide* [notification](#) dated November 4, 2024, has issued guidelines for determining e-waste recycler processing capacity by State Pollution Control Boards ("SPCBs") and Pollution Control Committees ("PCCs"). These guidelines mandate SPCBs and PCCs to verify the plants and machineries processing capacity including other supporting facilities. Based on such verification, they are required to issue the 'consent to operate', specifying the plant's approved capacity.

Strengthening enforcement of environment, water and air pollution laws

The Ministry of Environment, Forests and Climate Change ("MoEFCC"), *vide* notifications dated November 4, 2024, November 11, 2024 and November 12, 2024, has notified [the Environment Protection \(Manner of Holding Inquiry and Imposition of Penalty\) Rules, 2024](#), [the Water \(Prevention and Control of Pollution\) \(Manner of Holding Inquiry and Imposition of Penalty\) Rules, 2024](#) and [the Air \(Prevention and Control of Pollution\) \(Manner of Holding Inquiry and Imposition of Penalty\) Rules, 2024](#) respectively. These rules aim to strengthen the enforcement of environmental protection, water pollution and air pollution laws and accelerate the process of addressing environmental concerns by simplifying the procedure for filing complaints. Any contravention of the provisions of the Environment (Protection) Act, 1986 ("EPA Act"), the Water (Prevention and Control of Pollution) Act, 1974 ("Water Act") and the Air (Prevention and Control of Pollution) Act, 1981 ("Air Act"), empowers the adjudicating officer to initiate an inquiry within 30 (thirty) days from the date of receipt of the complaint. The inquiry process, including evidence gathering and decision-making, must be completed within 6 (six) months.

Inclusion of sovereign green bonds as specified securities under the Fully Accessible Route

The Reserve Bank of India ("RBI"), *vide* various circulars, has specified categories of Government Securities that are eligible for investment under the Fully Accessible Route ("FAR"). Further to this, RBI, *vide* [circular](#) dated November 7, 2024, has also designated sovereign green bonds of 10 (ten) year tenor issued by the Government in the second half of the fiscal year 2024-25 as 'specified securities' under the FAR.

Onboarding of companies on the trade receivables discounting system platform

The Ministry of Micro, Small and Medium Enterprises, *vide* [notification](#) dated November 7, 2024, has instructed all companies registered under the Companies Act, 2013 with a turnover of more than INR 250,00,00,000 (Indian Rupees two hundred and fifty crore) and all Central Public Sector Enterprises to get themselves onboarded on the 'Trade Receivables Discounting System' platforms. The onboarding process must be completed by March 31, 2025.

Exemption under Water Act and Air Act

MoEFCC, *vide* notifications dated November 12, 2024, has notified the exemptions under the [Water Act](#) and [Air Act](#). The following categories of industrial plants are exempted from the application of the provisions of Section 25(1) of the Water Act and Section 21(1) of the Air Act:

1. all industrial plants having pollution index score upto 20 (twenty) as listed in the prescribed Schedule, subject to condition that such plant must inform in writing to the SPCBs and PCCs; and

2. all industrial plants which have obtained prior environmental clearance as per the notification of the Government of India in the erstwhile Ministry of Environment and Forests number S.O. 1533(E), dated the September 14, 2006, issued under the EPA Act, in respect of previous consent to establish such plant.

Decriminalisation of offences under the Hazardous and Other Wastes (Management and Transboundary Movement) Second Amendment Rules, 2024

Pursuant to the provisions of Jan Vishwas (Amendment of Provisions) Act, 2023, certain provisions of EPA Act were decriminalised. Reciprocating these changes, MoEFCC has notified the [Hazardous and Other Wastes \(Management and Transboundary Movement\) Second Amendment Rules, 2024](#) and [E-Waste \(Management\) Second Amendment Rules, 2024](#) on November 12, 2024. These amendments decriminalise offences under the Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016 and the E-Waste (Management) Rules, 2022 respectively. Accordingly, any person who fails to comply or contravenes the provisions of these rules will be liable to a penalty in accordance with the provisions of Section 15 of the EPA Act.

Draft Central Electricity Regulatory Commission (Terms and Conditions for Purchase and Sale of Carbon Credit Certificates) Regulations, 2024

On November 13, 2024, the Central Electricity Regulatory Commission ("CERC") issued the draft CERC (Terms and Conditions for Purchase and Sale of Carbon Credit Certificates) Regulations, 2024, providing a structured framework for trading Carbon Credit Certificates ("CCCs") via the power exchange. These regulations aim to enhance efficiency and transparency in India's carbon market, catering to both 'obligated entities' (mandated participants) and 'non obligated entities' (voluntary participants). The key highlights include the establishment of a registry by the Grid Controller of India, oversight by the Bureau of Energy Efficiency as administrator, and strict compliance mechanisms.

The framework includes provisions for trading, pricing, validity, and market segmentation for CCCs, with clear penalties for non-compliance. CERC has invited stakeholders to submit comments, suggestions, or objections by December 15, 2024, paving the way for a streamlined and robust carbon trading mechanism aligned with the Carbon Credit Trading Scheme, 2023.

To read further details, please [click here](#).

Implementation of actions under Stage-III and IV ('Severe'/'Severe+' Air Quality) of revised Graded Response Action Plan in Delhi- National Capital Region

The Commission for Air Quality Management ("CAQM"), *vide* order dated November 14, 2024, has decided that all actions as envisaged under Stage III of the Graded Response Action Plan ("GRAP") - 'Severe' Air Quality (DELHI AQI ranging between 401-450) must be implemented in right earnest by all the agencies concerned in the Delhi- National Capital Region ("NCR"), in addition to the Stage-I and II actions already in force, from November 15, 2024 8:00 A.M. in the NCR. Pursuant to the same, in an effort to prevent further deterioration of the air quality CAQM, *vide* order dated November 17, 2024, has decided that all actions as envisaged under Stage IV of the GRAP - 'Severe+' Air Quality (DELHI AQI>450) must be implemented in right earnest by all the agencies concerned in the NCR, in addition to the Stage-I, II and III actions already in force, from November 18, 2024 8:00 A.M. in the NCR.

Principles to mitigate the risk of greenwashing in Environmental, Social and Governance labelled debt securities in the International Financial Services Centres

The International Financial Services Centre Authority ("IFSCA"), *vide* [circular](#) dated November 21, 2024, has issued principles to mitigate the risk of greenwashing in Environmental, Social and Governance ("ESG") labelled debt

securities in International Financial Services Centres (“**IFSCs**”). Issuers of ESG labelled debt securities in IFSCs must adhere to these principles, some of which are as follows:

1. an issuer of debt security must not use the name ‘Green’, ‘Social’, ‘Sustainability’, ‘Sustainability-linked’ or similar terms or a combination of these terms in the issuance of ESG labelled debt securities or its marketing, unless the securities are aligned with any of the frameworks recognised by IFSCA;
2. the issuer must disclose in the offer document a statement on ESG objectives, details of process followed for evaluating and selecting the project(s) and/or asset(s), proposed use of the proceeds and details of the systems and procedures for tracking the deployment of the proceeds as per the Regulation 77 (1) of the IFSCA (Listing) Regulations, 2024, for the issue of securities. Further, the issuer must avoid the use of broad or generic statements to describe investment screening criteria and the disclosures should enable investors to fully understand the product's sustainability-related investment screening criteria;
3. the issuer must outline procedures for ensuring funds are directed solely towards projects or activities as defined in the offer document and also disclose the internal control for managing and tracking the use of proceeds including the details of the systems and procedures to be employed for tracking the deployment of the proceeds of the issue; and
4. the issuer must quantify the negative externalities associated with ESG debt utilisation and continuously monitor and disclose the environmental impact of their projects financed by the issuance.

Modifications under the IFSCA (Anti Money Laundering, Counter-Terrorist Financing and Know Your Customer) Guidelines, 2022

IFSCA, *vide* [circular](#) dated November 22, 2024, has amended the IFSCA (Anti Money Laundering, Counter-Terrorist Financing and Know Your Customer) Guidelines, 2022. Some of the key amendments are as follows:

1. the regulated entity must adhere to the countermeasures when called upon to do so by any international or intergovernmental organisation of which India is a member and accepted by the Central Government; and
2. a regulated entity which is part of a financial group must ensure that it provides its group-wide compliance, audit and anti-money laundering/countering the financing of terrorism functions of customer, account, and transaction information from its branches and subsidiaries, including information and analysis of transactions or activities which appear unusual, if such analysis has been conducted, when necessary for the purposes of money laundering/terrorism financing risk management. Similarly, branches and subsidiaries should receive such information from these group-level functions when it is relevant and appropriate for effective risk management.

Other Developments

Solar Energy Corporation of India Limited signs memorandum of understanding to promote green hydrogen initiatives

The Press Information Bureau (“**PIB**”), *vide* [Press Release](#) dated November 20, 2024, announced a memorandum of understanding between Solar Energy Corporation of India Limited and H2Global Stiftung to establish a collaborative framework to promote green hydrogen initiatives. This aims to enhance knowledge exchange on market-based mechanisms and foster cooperation between India and importing countries, thereby contributing to the global advancement of the green hydrogen economy.

India proposes a dedicated multilateral fund for a new international legally-binding instrument on plastic pollution

PIB, vide [Press Release](#) dated November 27, 2024, has announced India's proposal to dedicate a multilateral fund for a new international legally-binding instrument on plastic pollution, at the 5th Session of the Intergovernmental Negotiating Committee in Busan, Republic of Korea. The proposal links compliance by developing countries to be incumbent on developed countries meeting the incremental cost of transition of developing countries. The proposed new dedicated multilateral fund will provide grant-based finance to developing countries, and the developed countries will be mandated to replenish the fund on a periodic basis and also provide flexibility of accepting private funds based upon agreed modalities.

Child labour tracking system

PIB, vide [Press Release](#) dated November 28, 2024, has announced an online portal called 'Platform for Effective Enforcement for No Child Labour ("PENCiL")' to ensure effective enforcement of the provisions of the Child and Adolescent Labour (Prohibition and Regulation) Act, 1986. To ensure strict implementation of the Act, District Nodal Officers have been appointed. The portal has 5 (five) components i.e., Central Government, State Government, District Project Societies, Child Tracking System and complaint corner. In addition, the Ministry of Labour & Employment has also framed model state action plan enumerating action points to be taken by respective State Governments for eradication of child labour including migrant, girl and schedule caste/schedule tribe children.

Environment, ESG and Climate Change Practice

The Firm advises and represents clients in environmental disputes before the National Green Tribunal, High Court(s) and the Supreme Court of India. We also advise clients on environment, social and governance (ESG) issues and assist them in ensuring compliance with the relevant laws. The firm has been regularly advising clients in matters relating to climate change and energy transition.

This Newsletter has been prepared by:



Amit Kapur
Joint Managing Partner



Sugandha Somani Gopal
Partner



Komal Karnik
Associate

		
18 Practices and 25 Ranked Lawyers	7 Ranked Practices, 16 Ranked Lawyers ----- Elite – Band 1 - Corporate/ M&A Practice ----- 3 Band 1 Practices ----- 4 Band 1 Lawyers, 1 Eminent Practitioner	12 Practices and 50 Ranked Lawyers
		
14 Practices and 38 Ranked Lawyers		
		
20 Practices and 22 Ranked Lawyers	Ranked Among Top 5 Law Firms in India for ESG Practice	Recognised in World's 100 best competition practices of 2024
		
Among Top 7 Best Overall Law Firms in India and 11 Ranked Practices ----- 11 winning Deals in IBLJ Deals of the Year ----- 12 A List Lawyers in IBLJ Top 100 Lawyer List	Asia M&A Ranking 2024 – Tier 1 ----- Employer of Choice 2024 ----- Energy and Resources Law Firm of the Year 2024 ----- Litigation Law Firm of the Year 2024 ----- Innovative Technologies Law Firm of the Year 2023 ----- Banking & Financial Services Law Firm of the Year 2022	Ranked #1 The Vahura Best Law Firms to Work Report, 2022 ----- Top 10 Best Law Firms for Women in 2022
		
		7 Practices and 3 Ranked Lawyers

For more details, please contact km@jsalaw.com

www.jsalaw.com



Ahmedabad | Bengaluru | Chennai | Gurugram | Hyderabad | Mumbai | New Delhi



This newsletter is not an advertisement or any form of solicitation and should not be construed as such. This newsletter has been prepared for general information purposes only. Nothing in this newsletter constitutes professional advice or a legal opinion. You should obtain appropriate professional advice before making any business, legal or other decisions. JSA and the authors of this newsletter disclaim all and any liability to any person who takes any decision based on this publication.